

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BENJAMIN HINDS,

Plaintiff,

vs.

Civ. No. 20-01011 MV/JFR

**CAROLYN BARELA, NINA SISTER,
LT. SIFUENTES, SGT. SILVA,
SGT. TORRES, SGT. ARAGON,
SGT. OCONNER, OFF. GARZA,
C.O. NORRIS, C.O. O'CONNER,
C.O. BACA, C.O. BACA, C.O. RUPER,
C.O. VELASCO, C.O. RODRIGUEZ,
C.O. FARVA, C.O. SANCHEZ,**

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS
AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on the Proposed Findings and Recommended Disposition by United States Magistrate Judge John F. Robbenhaar, filed May 18, 2022. Doc. 37. As per Fed. R. Civ. P. 72(b)(2), objections were due no later than June 1, 2022. The parties have not filed any objections. The failure to make timely objections to the Magistrate Judge's PFRD waives appellate review of both factual and legal questions. *U.S. v. One Parcel of Real Property*, 73 F.3d 1057, 1059 (10th Cir. 1996).

The Magistrate Judge's PFRD recommends that the Court grant Defendants' motion for summary judgment (Doc. 27) and dismiss Plaintiff's claims. Plaintiff brings claims sounding in negligence, negligent supervision, and deliberate indifference, a violation of his rights to Due Process as secured by the Fourteenth Amendment by way of the Eighth Amendment, and a deprivation of his civil rights under 42 U.S.C. § 1983. Doc. 12, at 18-20. The Court has conducted

its *de novo* review of the case, including a review of the evidence of record, and finds that the Magistrate Judge's prosed findings and recommendations are not clearly erroneous, contrary to law or otherwise an abuse of discretion. The Court therefore will adopt the PFRD.

IT IS THEREFORE ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 37) are adopted.

IT IS FURTHER ORDERED that summary judgment in Defendants' favor is appropriate and Defendants' motion to dismiss Plaintiff's claims with prejudice (Doc. 27) is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's *Response to Defendants' Reply to Plaintiff's Motion: Objections and Response to Defendants' Martinez Report*, filed May 20, 2022 (Doc. 38) and Plaintiff's *Motion for Appointment of Counsel*, filed May 20, 2022 (Doc. 39) are **DENIED**. Plaintiff's latest "Response" is effectively an untimely sur-reply regarding Defendants' *Martinez* report and their motion to dismiss, and Plaintiff's *Motion for Appointment of Counsel* is a renewed request that has previously been denied. After review, the Court finds Plaintiff's submissions (Docs. 38, 39) to be without merit.



MARTHA VÁZQUEZ
Senior United States District Judge